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N THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Peter Emig et al.

Serial No. 09/910,141

Filed on July 20, 2001

For: NOVEL HETEROARYL DERIVATIVES, etc.

Attorney's Docket 0691-070

Commissioner of Patents
Washington DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement mailed on August 6, 2002, the applicant hereby **provisionally** elects Group III. The requirement is hereby **traversed**.

A restriction is not applicable when the nucleus of a claimed compound is the same for every claim, as is the case here, and only the substituents on the nucleus are varied.

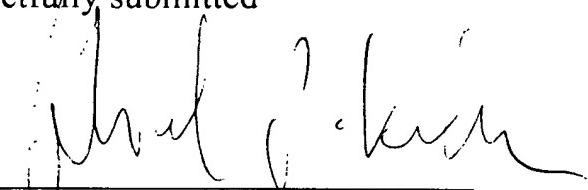
The traverse of the election requirement is also based on the fact that the number of members in a ring is not a valid ground for requiring restriction, the alleged ground of same or different "recognized class of chemical compounds" is not supported, and as a blank conclusory statement has no applicability whatsoever, the number of nitrogen atoms in a compound is not a valid basis for any restriction requirement, and the identity of the classification has no bearing on the validity of a restriction requirement. Therefore, in the present case no restriction requirement is justified at all, since none has been validly justified.

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Accordingly, the reconsideration and withdrawal of the requirement are respectfully urged.

Respectfully submitted

Customer No. address 23622


Gabriel P. Katona, attorney of record

It is hereby certified that this is being mailed on August 30, 2002

